IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1798 of 1991

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BABUBHAI JIVABHAI PARMAR

Versus

AGRICULTURAL PRODUCE MARKET COMMITTEE

Appearance:

MR RN SHAH for the petitioner

MR BN PATEL for Respondent No. 1

MR KL PANDYA, AGP, for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 25/03/2004

ORAL JUDGEMENT

1. The petitioner is an employee of the respondent Market Committee. He was appointed by the Market Committee in the year 1987 by giving advertisement in the Sandesh daily newspaper on 22nd July 1996. The Market

Committee has taken decision dated 4th March 1991 pursuant to which the petitioner was apprehending his termination, has approached this Court by way of the present petition.

2. While admitting this matter this Court has protected the service of the petitioner and he has been continuously working with the Market Committee.

3. On 17th January 2002 the matter was adjourned in view of the pendency of Letters Patent Appeal No.591/2000. Another employee of the respondent Market Committee had, in similar circumstances, approached this Court by way of Special Civil Application No.1799/1991. The said petition came to be dismissed by order dated 3.6.2000 against which the said Letters Patent Appeal No.591/200 came to be filed. This Court by judgement and order dated 16th October 2003 allowed the said LPA on the ground that the order was passed by the respondent authority without hearing the appellant therein, that the order was passed after a lapse of four years and that the appellant had remained in service for more than 16 years.

4. On the facts of the case, the respondent no.2 ought to have issued notice at least to the affected party. The same is not done and the impugned order was passed unnecessarily though under the Act every appointment of the Market Committee on the sanctioned post is made in consultation or by sending information to the Director. The petitioner has been working with the Market Committee right from 1987. Since the respondent no.2 has not taken any action from 22nd January 1987 till March 1991 the petitioner was put to unnecessary harassment. Apart from that order was passed in clear violation of principle of natural justice. No notice was given to the petitioner before passing order.

5. In view of the above facts and circumstances and in view of the order passed in Letters Patent Appeal No.591 of 2000, this petition is required to be allowed. Accordingly it is held that the petitioner is entitled to continue in service with continuity of service and the impugned order dated 4th March 1991 at Annexure-B passed by respondent no.2 is quashed and set aside. Rule is made absolute accordingly with no order as to costs.

[K.S. JHAVERI, J.]

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